UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,538	12/10/2004	Jean-Christophe Dupuy	FR 020701	5675

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NXP, B.V.
NXP INTELLECTUAL PROPERTY & LICENSING
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

EXAMINER
HOLLIDAY, JAIME MICHELE

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
01/10/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Advisory Action **Before the Filing of an Appeal Brief**	Application No. *10/517,538*	Applicant(s) DUPUY ET AL.
	Examiner JAIME M. HOLLIDAY	Art Unit 2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>21 December 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

  b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617

Continuation of 11. does NOT place the application in condition for allowance because: Applicants basically argue that the combination of the Vilppula with the secondary references is illogical since Vilppula et al. disclose a single locator device that can have multiple positioning mechanisms, while Yamamoto et al. is directed to a cellular communication system that provides the functionality in remote servers and positioning centers. Examiner respectfully disagrees, because the PMSD of the Vilppula reference uses network based positioning (triangulation; TDOA; external GPS) and a MS-based positioning (internal GPS of the terminal device). The Yamamoto et al. reference is cited to teach a positional information service server (which is a single entity). Additionally, the Roel-Ng reference teaches that the description of the MPC (which is a single entity) utilizes network based and MS-based positioning methods. Therefore, the modification of the system of PMSD to activate an idle positioning method is logical, in order to determine the position of the terminal device. Applicants further argue that the Vilppula reference does not teach ordering a list of devices according to a parameter of each device, in response to a detected context change, and the context itself. Further, Applicants argue the prior art of record does not teach "the best possible positioning method for each sequence of request." Examiner respectfully disagrees, because Vilppula et al. clearly teach determining the best possible positioning method that is available based on quality of service, reading on the claimed "order the list of position determination devices based on the value of said at least one parameter for each position determination device" (paragraphs 7, 11, 12). The reference further teaches on arrival at his/her destination by car, the user takes the terminal with him/her, whereupon the external GPS system is no longer available for use by the PMSD, and the PMSD searches for the most suitable method from the available positioning methods, or that defined in advance by the user, for example the internal GPS device of the terminal. When the user enters a building, the terminal's internal GPS receiver may enter a environment where it is not able to receive the necessary satellite signals (a so-called dead region), in which case its operation is prevented. In this situation, the PMSD searches once more among the available positioning methods for a new system, such as the E-OTD or Bluetooth system or WLAN services, which operate better indoors, reading on the claimed "in response to a change in the context information;" and "in transit, on foot or indoors," (paragraphs 7, 11, 12). The context is changed when the user leaves the car, and then enters a building, which changes the available positioning methods.   Applicants additionally argue that the "register" of the Vilppula reference is not the same as the claimed "drivers," since drivers are computer programs. Examiner respectfully disagrees, because the registers perform the same functions of the claimed "drivers," by storing parameters values. Also, Vilppula et al. clearly teaches that it's a computer program means that maintains the registers (paragraphs 27, 28). Applicants also argue that the prior art does not teach power consumption as recited in claim 13. Examiner respectfully disagrees, because Vilppula et al. further disclose parameters describing the quality of the positioning data (Quality of Position QoP), such as the positioning accuracy requested by application n, is stored in a register 114, and in addition to accuracy, the parameter value (or parameter values) can be cost, if use of the positioning method is subject to a charge, or the speed at which the positioning method provides positioning data, reading on the claimed "stored parameter values include at least two among an accuracy value, a response time value and a power consumption value (paragraphs 32, 47). Therefore, in view of the preceding arguments, Examiner maintains previous rejection.